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THE JURY SYSTEM—A VENERATED HUMBUG.

The statement made to Mr. Kopke by a juror in the Japanese riot cases that he voted to acquit because he wanted the strikebreakers to go on working, his evident purpose being to continue the trouble for their gain as long as possible, reveals a man who is unfit to sit in the jury box. He was under oath to consider the evidence presented in the riot cases on its merits; yet he chose to go outside of all that and vote because he wanted people who would lose by the breaking up of the strike to keep their jobs. His oath counted as nothing to him; he only consulted his private views and prejudices. And there were others in the jury box like him, hence the culpable mistrial of a perfectly clear case.

But the system as well as the man is to blame. The jury is a very ancient institution, so ancient that it has become a fetish to which people make enormous sacrifices. It presupposes, first, that a man picked up on the street, especially if he has read nothing or sensed nothing, is intelligent enough to pass upon grave questions in court; and that if he has no character for honor or truthfulness or sense of fair-play the taking of an oath will so change his nature that he can be depended on for the most even-handed justice. It has ever been so in all countries. A great man once visited the Areopagus Court of Athens where cases at law were heard by a venire of five hundred men. "What do you think of our Athenian justice?" he was asked by some inquisitive Greek. "Wise men argue cases and fools decide them," was the succinct answer, and it applies as well today, with the addition of knaves to fools, as it did then. In Athens, in Paris, where Dreyfus was hounded to Devil's Island; in Berlin, where a journalist went to prison for blazoning the sins of the aristocracy; in London, where innocent Mrs. Maybrick was sent to a living death; in Brooklyn, where Henry Ward Beecher could not get an acquittal; in Honolulu, where a corporation is rarely given justice, it is the same old story—wise men argue cases and fools and knaves decide them.

And yet we are all expected to kneel down and worship the jury system as the followers of Baal worshipped the golden calf. Is it not sacred for its age—almost as sacred as the Juggernaut was a lifetime ago? Has it not come down from days that must have held no guile because they were before our time? True, a board of educated judges or a board of carefully selected and highly paid jurors sitting for terms of years, would be a hundred times more likely to approach the standard of exact justice than the hap-hazard juries we have; but is not the hap-hazard system imbedded in constitutional law and immemorial custom? Is it not anathema to raise one's hands against it as it used to be to cast one's shadow in the path of the king?

Literature is full of fine things about justice, but justice, like water, can not rise above its source. When its source is in the saloon loafer, the uneducated blatherer, the petty intriguer, the hater of the fortunate, the envious of power or wealth, the sympathizer with crime, the thick-headed oaf, the man whom any smart demagogue may befoul at will—when justice, we say, can be kept at the level of men like these, it falls far short of its mission and loses all its sanctity.

THE CONQUEST OF THE BILLBOARD.

Whenever there is talk of fighting the billboard by refusing to buy the goods it advertises, those who profit by the nuisance come back with threats of retaliation through the conspiracy and boycott laws. These threats are valid so far as they apply to any organized movement to restrict, hamper or destroy a lawful business. Under Federal statutes no man may join another in boycotting the lawful interest of a third man; no set of men may conspire to injure property or a means of livelihood. But all this, it must be remembered, pertains to organization. There is no law under the sun to keep any man from refusing to buy wares which do not suit him or which he may deem to be advertised offensively. His right to act for himself is as clear in such matters as his right to reject clothing that he does not want to wear or food which he does not care to eat.

To illustrate: If a body of public-spirited citizens, taking natural offense at the appearance everywhere on this island where private or corporate interests are not in the way, of signs urging the public to drink a certain brand of beer, should agree to drink no beer of that make and to induce others to take the same pledge, the brewers would have their remedy in law. Doubtless the parties to the boycott would fare badly in court. But if, on the other hand, these public-spirited citizens, without collusion, acting privately, should buy some other beer or none at all, the full force of the boycott would be employed without incriminating any one.

The efficacy of the boycott which arises spontaneously from a common sense of injury or insult has been seen of late in this city where the great firm of Hackfeld has withdrawn its billboard advertising because wares so proclaimed have been subject to the silent, individual protest of so many buyers as to seriously lessen the sale of the product. There was no union against the goods, no combination, no gatherings or talk in the papers, nothing but an unorganized general sentiment that merchandise, offensively thrust upon one's notice, should be left alone. And it was left alone with the result we have described.

The only way to get rid of the billboards which disfigure streets, fields and country roads, is to make them unprofitable; and the public has the remedy in its own hands. If a hundred people who find a beauty spot hidden by a high fence bearing the slogan of a certain cigar, for instance, should write the dealer, independently of each other, that they would not buy a cigar so advertised, that would bring the fence down. Billboards depend, not upon those who put such things up, but upon those who buy the products they advertise. When the individual consumer arises to the occasion, the billboards will vanish.

THE HENEY ACCOUNTS.

What has the money which the United States government paid Heney got to do with the San Francisco graft prosecution? Long before Heney had any part in the San Francisco cases, which the Federal government was not a party to, he was employed to unearth and prosecute the Oregon land frauds. That was away back in the time of the scandals about Mitchell, Benson, Herman, Hyde and others. Heney took hold as a special legal representative of the Federal government and was paid accordingly. Representative Tawney says he was paid too much, but that remains to be seen. The United States Department of Justice is not famous for overpaying anybody.

Evidently the Star, which takes this matter up as one purely local to the San Francisco cases, has confused Tawney's \$23,000 with the \$23,828.22 which was paid out on his account in the San Francisco prosecution but not, as various papers have alleged, in the form of compensation to Heney himself. Here is the Heney account itemized, covering a period of months and the services of many men:

Rent	\$5,186.55
Office expenses	1,522.92
Private exchange and operator	1,049.23
Telegrams	316.82
Postal and messenger expenses	280.26
Traveling expenses	118.45
Office salaries	8,694.67
Office furniture	435.50
Auto and carriage hire	957.05
Stenographic and legal expenses	2,147.37
Detective expense	4,232.61

\$23,828.22

This account has been audited and allowed and not a cent charged in it has been traced to Mr. Heney's pocket. Rudolph Spreckels' statement that the Assistant District Attorney received nothing for his personal services to San Francisco still stands firm.

It would be a mistake, we think, to tell the juryman who ignored the evidence in the riot cases for purely private reasons, to the jury box again. They have shown, by such explanations as they have made, a clear disqualification for jury duty.

INJUNCTIONS AND MARTIAL LAW.

We hear a great deal nowadays about government by injunctions, and among a considerable number of people the phrase is suggestive of coercion of the working classes.

The strike in Hawaii was in progress for two months before any legal injunction was issued in regard to it and then the injunction was in such form that Judge Robinson stated on law-abiding citizens should object to its issuance.

As a matter of fact, however, the injunction issued by the court was not the first injunction which has been promulgated and enforced with respect to the strike. The first injunction was that issued by the Higher Wage Association against the Oahu Sugar Company and other plantations involved, prohibiting them from employing any Japanese workmen on their plantations. This comprehensive injunction was also directed against all Japanese on the islands, and forbade them from entering the service of the plantations. It was an injunction issued against laborers and prohibited them, whether willing or unwilling, from earning their livelihood in the manner to which they were accustomed.

This injunction was enforced by methods in rude imitation of those of the court. Contempt proceedings for its violation have been numerous. The Nippon Jiji has, on several occasions, published accounts of guilty ones, who purged themselves of contempt by appearing before the officers of the association, bowing their heads to the floor, and confessing their sins and promising to offend no more. For the recalcitrant, other methods were in use, the application of one of which, after due trial and conviction of the offender, left him in the hospital.

Another occasion, when three contractors seeking labor were seized, the trial was proceeding in due form when interrupted by the police. It appears that Judge Robinson's court was not only several weeks behind with its injunction but is far behind in its enforcement.

Besides the injunction issued and enforced by the Higher Wage Association, it now appears that the strikers have an organized system which can only be compared to martial law. The affidavits filed yesterday in the contempt proceedings tell an extraordinary story. It appears that all the strikers from the plantations are organized in groups of twenty, over each of which is a leader responsible for his men. The roll is called every morning, and if any workman is absent word is sent out and men are sent to locate him.

If a striker wishes to leave Honolulu or to visit Waipahu for any purpose, he must apply for a permit, which can only be described as a military pass. These passes are numbered and issued under the seal of the Waipahu branch of the Higher Wage Association, and state the reason why the bearer is permitted to visit Waipahu.

On every road leading to Waipahu are stationed pickets, whose business it is to stop every Japanese passerby and demand his pass. Books are kept with military precision, giving the record of each pass. The man who wanted to go to work for the plantation last week applied first for a pass for a week and afterward for three days, but was given a pass to leave Honolulu for twenty-four hours only, with instructions that he could get the time extended by presenting the pass at the Waipahu office and showing a good cause.

This is a system such as has been adopted here in times of epidemics, but it is doubtful if it has any other counterpart outside of an army. It is, in effect, martial law, as applied to the majority of Japanese laborers on this island. The question which has been brought before the court is whether its continuance after the issuance of the injunction last Friday was a violation of the injunction.

MAKING LAW BUSINESS.

It would be interesting to know how many statutes are drawn up by lawyers for no other purpose than to make work for the profession. The average legislator knows little about the form of statutes, so he goes to an attorney, who is supposed to know, and gets a bill drawn. The measure has the scrutiny of the legal minds of the legislature and, in due course, becomes a law. Yet in perhaps five cases out of ten the first action under it is met by an assault on the statute itself on the ground that it is constitutionally or otherwise defective. It has been drawn wrong; something has been left out or something obnoxious to the organic law left in, whereupon enough legal business is made in getting it interpreted by higher courts to keep a half dozen barristers in clover for a year.

Just who planned the alterations in the lunacy law of Hawaii we do not know, though half a dozen lawyers claim the honor. But it appears in the well-coached contention of Dr. Atcherley that the framers of the new statute only implied essential things where they should have been declared; so that there may even yet remain in our law an appeal to a jury which, under enlightened systems of jurisprudence, is not permitted to defendants in insanity cases, a decision as to mental soundness being one for medical experts and not for a lay jury box. One may easily see where a lawyer, anxious to boom business, would stand on this proposition. Before a lunacy commission, where a medical inquiry takes the place of a court combat, there are no fees in sight for the attorney. For him a judge and jury every time.

Litigation is increasing the world over. The laws have grown so complex, so cumbersome and contradictory that it is almost time to burn them, as Justinian did, and begin again with a clean page and a simple code. Every year piles an Ossa of defective statutes on a Pelion of repealed and superannuated ones. But it makes business, and there are lawyers enough in the world to keep the mixer going and assure the profession against the wolf for ages to come.

A NATIONAL GUARD ARMORY.

This paper has not been enthusiastic over the support of the National Guard since revolutionary days, and it would hesitate to urge a larger use of public money for that purpose than the allowance now granted; but if private citizens have funds with which to improve and build up the citizen soldiery, the distinct need of such improvement warrants this paper in hoping that the contributions will be generous.

It is proposed to build an armory. The business men believe they can provide enough money for that purpose. At present the Guard is quite out in the cold as the big drillshed is wanted by the United States as a storehouse for the Quartermaster's department. What is left is a rifle gallery and all out doors. If being deemed wise by the business men, urged to that attitude by the War Department, to keep the Guard together, it follows that the force should at least have a roof over its head and facilities with which to cultivate the military art.

In this connection we cherish the hope that, once started, the business men of Honolulu will go further and encourage an improvement in the personnel of the local regiment. A few years ago a man had to enlist in the Guard to hold his job in the road department; and the ranks were filled with native laborers who cared no more for the military life than they did for the flag they were supposed to follow, and who had rather any sort of a perfunctory foe should triumph over them than that they should lose a drop of blood or miss dinner. Perhaps the spirit is better now. Perhaps the militiamen are full of zeal and patriotism and pluck and could even stand off an equal number of the men who whipped the Russians. But if there are any carking doubts on that point, the sooner the business men organize some strong companies of their own, the safer the new armory will be from capture by a resolute mob.

AMERICANIZED EUROPEANS.

The German Navy League recently invited the German-American National Union to join its ranks. The Union has replied that the League ought to remember that the members of the Union are citizens of the United States, adding that, for all their love of their old home and their pride in Germany's greatness and power, they must decidedly object to the invitation and, in their opinion, every German-American should do likewise.

It is a notable fact pertaining to the mainland of the United States—much less so to Hawaii—that Germans, of all continental immigrants, are most eager to affiliate with the republic. The Italian intends to pass his declining years in the old country. The Frenchman shivers at the idea of never having his roof-tree in France again. The Spaniard is a denizen merely. Hungarians, Swiss, Greeks, come to make money but intend to go home with it in the long run. But the German settles down and in the vast majority of cases never crosses the Atlantic again, while his children, educated in the public schools, evolve into American citizens of the best type. We have millions of people in America now with names of German derivation, who can not speak a word of the language of their forefathers and who are as American in their viewpoint as the New Englander who boasts of his descent from Plymouth Rock. The army and navy are full of German strains; everywhere, in positions of the highest responsibility, are citizens of German lineage, but Americans in all the term implies.

We speak of continental Europeans, which excludes the Irish, who also become devoted Americans. It can not be said that the English are doing much to replenish the parent stock, having great and attractive colonies of their own, nor is it certain that they take to citizenship as readily as the Germans or Irish do.

The recent policy of China has been in conflict with the railroad, commercial and other interests of Japan, though the two countries with such identical aims and with such racial sympathies in common, should be friends. But nothing seriously unreasonable at this, wholly sane, can be expected yet of the government of China. It is in a transition period between the old superstitions and fatalistic barbarism and the new civilization and is influenced most, perhaps, by ancient precedent. Now and then a modern statesman appears at Peking and things promise well for a national policy; but before long a reaction sets in and he reverts to the imperial yellow card, which is generally the last of him. With Yuan Kai-shi, a greater man than Li Hung Chang in adaptability to new ideas, there was hope; but with the dominance of Kang Yu Wei the worst days of the late Emperor Dowager may be revived. The latter is a hopeless reactionary, and he is quite as capable as the government of China in 1894 was to challenge the might of Japan and compel her, once more, to set her fleets and armies in motion—a resource which would suit Russia very well.

The Star of the 19th instant makes the following editorial comment:

A week or so after this paper gave the official news that the government nursery compound was about to be thrown open as a public park, the morning paper gave an interview with a citizen advocating that such should be done. In fact, this disposition of the premises was decided on long ago, but was delayed until the grounds could be put in condition for the purpose.

The morning paper referred to ought probably to feel well-squelched. But, as a matter of fact, only yesterday afternoon was it determined to throw the park in question open to the public. And it took some thirty minutes' heated discussion to arrive at that decision.

One of the complaints made against heedless autoists is their disregard of the rights of carriages. Their habit of scaring horses by driving their machines close to them at the curb was emphasized the other day when a buzzing auto was pushed, despite the protests of an elderly lady in a surrey, directly under the nose of her horse. The animal backed the carriage in a way to cramp the wheels and an overturn was avoided by the merest chance. There were no apologies on the part of the chauffeur; in fact, he seemed to be amused at the episode. Nothing could be done by way of prosecution in this matter, as nobody had been hurt, but autoists who do these things are hastening the time when the regulations governing the use of automobiles will have to be made much more drastic than they are.

Some weeks ago in an article on the smells of cities the Advertiser said that the distinguishing odor of Honolulu is Asiatic. This is not observed by people who stay here, but is plain to new-comers or residents returning from a long stay abroad. One of the latest persons to notice the Honolulu bouquet and record his impressions in print is Mr. Frank Fox, a colonial journalist, whose interesting article on Honolulu was reprinted in these pages yesterday. "The languid, vague smell of Asia," he described at once on his arrival here, though if he had stayed on the ground for a week he would have lost it. But it is here; it pervades everything and helps to impress the stranger with the semi-foreign aspects of this American outpost.

As usual the organ of discontent tries to create a race issue because no place in the departments has been found for Mr. Smithies. Mr. Smithies is a good man, who has spent a great part of his life in the public service and, naturally, his friends expect him to round out his career there. Perhaps he will. He certainly does the work well that is entrusted to him and is in the prime of his powers. But under the American system of government, outside the civil service class, there are no life terms in office, and it may be regarded as very likely indeed that none will be established on a basis of color. If Mr. Smithies suffers from that fact, the way will still be open to him to run for something with every prospect of his polling the party strength.

Three shots fired at a police officer the other night, supposedly by Japanese, is a sign of growing lawlessness. Strikes always produce such things, and the end, in this community, must be had for the strikers. It is not a propitious sign that the strike leaders have ceased talking of their desire to preserve law and order and that things have reached a pass where Makino can carelessly remark to the sheriff that he would have lost his life if he had used force against the Japanese who seized his automobile. Evidently these cocky agitators need instruction in the meaning of martial law with the armed forces of the United States back of it.

The fiancée of young Manuel is a relative of the British royal family, a daughter of the Duchess of Eife. Manuel is a likable king from his pictures, much more so than the King of Spain, his neighbor, and no one will be churlish enough to wish him anything but joy in his new relation. No more reasonable hope can be vouchsafed him than that he and his bride may escape the dangers of their position and get some of the domestic happiness that belongs to the lowly born.

War does not seem to be as popular among the Spaniards as it used to be. Yesterday's cable shows that families of soldiers ordered to Africa have assaulted the police as the nearest representatives of the government, and that a battalion under orders for Melilla mutinied and were disbanded. Martial spirit was once a chief characteristic of Spain, but the history of the Spanish war, together with that of the present Moroccan enterprise, is significant of its decay.

Dr. Atcherley has been declared insane, but will appeal to the lunacy commission and also to the Circuit Court—to the latter on the ground that the law giving the final decision to the commission is unconstitutional. Evidently we are in for a long siege of Atcherley with his ghosts and sewer gangs, attic spies, persecutors, "poli-geist" tricks and the faithful and voluble Mary. As if the strike were not enough!

A premier who loses his head in debate or anywhere else signs his own political death-warrant. One of the things a premier is for is to keep cool when everybody else is excited. When he can't, his day of leadership is past.

Kanai Japanese are busy cutting wood now and don't stop to see the strike fund collector. Putting up for a Honolulu vacation which they can't enjoy themselves is beginning to pall on the outlanders.

Atcherley brought his children into court to swear that they were all the time being scared at home. Who wouldn't be? A night in the Atcherley menage would whiten the liver of an Apache chief.

One of the threats of the Jiji, directed at Editor Sheba, is that "the iron fist of the Japanese will come in torrents on his head." Evidently Mr. Sheba should carry an armor-plate umbrella.

Galveston's hurricane-proof seawall is one of the best investments the city ever made. It has paid for itself many times over in the amount of damage it lately prevented.

HARRY JUVEN WANTS TO BE MOSES

Harry Juen is trying to organize a party of fifty white families in Honolulu to go to Arizona and take up a large slice of government land and become farmers. He hasn't got very far with the project yet, but hopes to be successful in his endeavors to be the Moses to lead his people across the deserts to the land of milk and honey.

Juen returned from Arizona a short time ago, on the last voyage of the Manchuria, and is very enthusiastic over that part of the country. He believes it is the place to make money. All one has to do, he says, is to go there and take up 320 acres of government land and then sit down and wait for

Uncle Sam to come along and put water on it.

Of course, the water is necessary, but it is only a question of time before it comes. If one waits long enough, he will get it.

Harry Juen's idea is for the whole fifty families to go together and take up their land contiguously. Then they can all chip in and put in a pumping system, which would probably give them water considerably quicker than they would get it were they to wait for the Federal government to dig wells, build dams and do such like things.

And while the colony was waiting for the crops to grow, the heads of the households could go out and dig gold. Everybody digs gold in Arizona. It is the popular pastime. When a man has nothing else on hand to do, he goes out and digs a few chunks of gold out of the backyard while waiting for dinner to be got ready. Really, Arizona, Juen says, has this effect Territory beaten to a frazzle.